

## MEMORANDUM

DATE: April 10, 2008

TO: All Members of the Delaware State Senate  
and House of Representatives

FROM: Ms. Daniese McMullin-Powell  
Chairperson  
State Council for Persons with Disabilities

RE: H.B. 313 [Worker's Compensation Coverage]

The State Council for Persons with Disabilities (SCPD) has reviewed H.B. 313 which includes Post Traumatic Stress Disorder (PTSD) as a personal injury covered under workers' compensation. SCPD has the following observations.

First, the Workers' Compensation statute envisions coverage of employment-related injuries. The definition of "injury" is somewhat narrow in the context of mental or emotional conditions:

(15) "Injury" and "personal injury" mean violence to the physical structure of the body, such disease or infection as naturally results directly therefrom when reasonably treated and compensable occupational diseases and compensable radiation injuries arising out of and in the course of employment.

Title 19 Del.C. §2301(15). Caselaw, however, has allowed coverage for mental health conditions. See, e.g. State v. Cephas, 637 A.2d 20 (Del. 1994); and Page v. Hercules, 637 A.2d 29 (Del. 1994).

This bill would not amend that definition directly but would add a separate Code section directing coverage of Post Traumatic Stress Disorder (PTSD). The bill would add the following provision:

(d) Post Traumatic Stress Disorder shall be covered as a personal injury as long as it is related to the occupation that the employee was engaged in or, if the person was deployed in a combat zone in the National Guard or the military or its reserves during the appropriate time period.

PTSD is a common condition among returning military from Iraq and Afghanistan. Its features are outlined in the attached summaries from veterans' and military sites. It can also occur based on other trauma (e.g. industrial explosion).

SCPD endorses the proposed legislation with the caveat that the Legislature may wish to eventually explicitly expand the general definition of "injury" to encompass mental conditions arising out of the course of employment. Apart from radiation, which is already covered, there may be industrial

chemicals which cause memory or central nervous system deficits. Read literally, the current definition of “injury” would ostensibly exclude coverage of such deficits since not caused by a “disease” or “infection”.

Thank you for your consideration and please contact SCPD if you have any questions regarding our position or observations on the proposed legislation.

cc: The Honorable Ruth Ann Minner  
Governor’s Advisory Council for Exceptional Citizens  
Developmental Disabilities Council

Hb313 ptsd 4-10-08.doc